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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,847	04/14/2006	Keith Hensel	BRE0326U	5157

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EXAMINER

WASAFF, JOHN SAMUEL

ART UNIT	PAPER NUMBER
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3742

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11/23/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,847	Applicant(s) HENSEL, KEITH	
	Examiner JOHN WASAFF	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-27 are pending.

Priority

2. As indicated by applicant in response dated 05/19/10, the request for foreign priority has been abandoned.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 9, line 6 recites "a trajectory determined by the actuating arm." It is unclear what applicant means by trajectory. Is applicant referring to a particular design feature of the fruit dome or the angle of movement? Further, such a limitation does not impart any structural limitation into the claim. For the purposes of examining, "trajectory" has been interpreted to describe the angle in which the fruit dome moves when acted upon by the actuating arm.

6. Claim 12, line 2 recites "the profile of the reamer profile," which lacks antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Schier (US Patent No. D187,451).

9. Schier shows a juice extraction device comprising a plurality of primary ribs (ribs seen in Fig. 1) for contacting the citrus; the plurality of primary ribs each have separate upper and lower convex profiles (Fig. 1 shows ribs with two profiles, one closer to apex and one closer to base); a concave transitional section located between the upper and the lower profile (Fig. 1 middle portion that acts as transition between profiles at top and bottom); the concave transitional section smoothly blends the upper and lower profiles together (seen in Fig. 1); the upper profile has a sharper apex angle than the lower profile (apex portion at top of ribs has sharper angle than profile near base; Fig. 1); the primary blade are blade like (blade-like ribs seen in Fig. 1).

10. Claims 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by De Zarate (US Patent No. 4,706,559).

11. De Zarate shows a reamer (extractor head 25); a housing to support the reamer (cylindrical body 1); a motor to drive the reamer, the motor contained in the housing (electric motor 2 in body 1; Fig. 1); a fruit dome carried by an actuating arm (cap 33 on handle 31; Fig. 1); the fruit dome has a trajectory determined by the actuating arm, the trajectory having a

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curved portion and a generally linear portion that is coincident with an axis of rotation of the reamer (Fig. 1 shows silhouette of handle 31, where the handle 31 moves in a curved path until it is coincident with axis of rotation); the actuating arm co-operates with a micro switch lock-out (micro-switch 34) to prevent early rotation of the juicing reamer; the reamer has an apex on which is formed a central spike (protuberance 26 on apex of head 25; Fig. 1) which co-operates with an internal surface of the fruit dome (protuberance 26 fits in cap 33; Fig. 1) to limit the gap between the reamer and the dome; the fruit dome includes a profile on its inner surface that corresponds with the profile of the reamer profile (Fig. 1 protuberance 26 fit snugly in cap 33, i.e., profile of fruit dome corresponds to reamer profile); the fruit dome is removable for washing (cap 33 connected via screws to arm 31, i.e., cap 33 removable; col. 4, ln. 35-40); the fruit dome includes a stub shaft for attaching the dome to a corresponding aperture in the actuating arm (cap 33 attaches to arm 31 via screw that acts as shaft and aperture in arm 31; Fig. 1); the fruit dome contains one internal edge to grip the skin of the fruit (cap 33 has inside surface, i.e., internal edge; Fig. 1); a juice collector that includes a sealable spout to control the flow of juice from the collector (pipe 18 defines a juice collector, with free end 19 defining a sealable spout; Fig. 1)

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 4, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schier in view of Thackray (US Patent No. D379,744).

15. Schier teaches all the features as set forth above, but fails to teach a plurality of secondary ribs, secondary ribs between the primary ribs, a paddle near a base of the primary ribs, and the top of at least some of the primary ribs form spikes to hold fruit in place.

16. Thackray shows a citrus press with primary ribs and secondary ribs (primary ribs include those ribs that extend furthest from dome, while secondary ribs are located in between primary ribs; Figs. 1, 6). A paddle is also located at the base of the primary ribs to provide for easy access to the fruit juice (Fig. 1). As seen in Fig. 1, the primary ribs converge to form a spike to hold a fruit.

17. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Schier to include the features of Thackray, so that the any seeds and/or pulp are filtered out via the secondary ribs.

18. Claims 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Zarate in view of Maass et al. (US Patent No. 4,206,345).

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19. De Zarate teaches all the features as set forth above, including a pivoting hinge (handle 31 pivots about cam 35) but fails to teach a four bar linkage hinge, or that the actuating arm is a collapsible quadrilateral hinge.

20. Maass teaches a grill with two parts being interconnected by an articulated, i.e., collapsible, hinge joint including an extendable linking member and a plurality of stop surfaces permitting different angular positions of the top part relative to the base part (see abstract).

21. It would have been obvious to one of ordinary skill in the art to modify De Zarate to include the feature of different angular positions produced by the hinge joint, as taught by Maass. The motivation is for greater flexibility provided the extendible linking member. Regarding the four bar linkage in particular, this too would have been obvious to one of ordinary skill in the art at the time of the invention, since it only requires a simple modification to the combination of De Zarate and Maass.

22. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Zarate in view of Daniels (US Patent No. 4,378,078).

23. De Zarate teaches all the features as set forth above, including a hinged spout (pipe 18) that dispenses liquid from an aperture in a container (upper body 16).

24. De Zarate does not teach an elastomeric plug, the elastomeric plug fits into the aperture in the container to stop a flow of fluid there through, the plug having a portion that is larger than the aperture (in order for seal to form, plug must be larger at some point; Fig. 2). De Zarate also does not teach a portion of the plug preventing the plug from dislodging under the influence of gravity, wherein the portion is an enlarged head in the same embodiment.

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25. Daniels teaches an elastomeric plug (rubber plug 96; col. 6, ln. 32-39), the elastomeric plug fits into the aperture in the container to stop a flow of fluid there through (Fig. 2), the plug having a portion that is larger than the aperture (in order for seal to form, plug must be larger at some point; Fig. 2). Daniels also teaches a portion of the plug preventing the plug from dislodging under the influence of gravity (plug 96 stuck in position seen in Fig. 5, i.e., plug prevented from dislodging due to gravity), the portion is an enlarged head (enlarged head of plug 96 seen in Fig. 5).

26. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify De Zarate to include the plug as taught by Daniels, so as to maintain the seal via the plug until the user is ready to discharge the contents of the container (col. 6, ln. 30-36).

Response to Arguments

27. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: See Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN WASAFF whose telephone number is (571)270-1283. The examiner can normally be reached on Monday through Friday, 7:30am to 5:00pm, alternating Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN WASAFF/
Examiner, Art Unit 3742
11/19/10

/M. Alexandra Elve/
Primary Examiner, Art Unit 3742